

ORDINANCE NO. **019301**

AN ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES), CHAPTER 15.08 (STREET RENTALS), ESTABLISHING SECTION 15.08.160 (MOBILE BILLBOARDS) OF THE EL PASO CITY CODE TO ADD REGULATIONS FOR MOBILE BILLBOARDS. THE PENALTY IS AS PROVIDED FOR IN SECTION 15.08.160 OF THE EL PASO CITY CODE.

WHEREAS, the public right of way is primary for the passage of persons and goods;
and

WHEREAS, the City has authority to allow for the use of a street for a private purpose provided that use does not interfere with the public use of the street and does not create a dangerous condition on the street; and

WHEREAS, the City finds that it is in the best interest of the public to regulate mobile billboards on city streets in order to ensure that the public use of the street is maintained and no dangerous conditions on the street are created; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 15 (Public Services), Chapter 15.08 (Street Rentals) is amended, establishing Section 15.08.160 (Mobile Billboards) as follows:

A. Definitions. For purposes of this section, the following terms have the following definitions.

1. "Mobile billboard" means a motor vehicle or trailer, which is used for the display of general advertising for hire.
2. "Director" means the individual designated by the city manager in charge of overseeing the enforcement of this Section.
3. "Applicant" means a natural person as well as any entity or organization authorized to do business in the State of Texas and County of El Paso.
4. "Permit" means a permit issued by the Director under this section.
5. "Public Right-of-Way" means any portion of a street or sidewalk dedicated to the City of El Paso for the use of the public.

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6. "Changeable Electronic Variable Message Sign (CEVM)" means a sign which uses electronic technology that is capable of displaying changeable or intermittent images, such as by turning on or off various lighting elements. The term includes any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, or which changes the visual image more than one time per twenty-four-hour period. The term includes display technology such as LED (light emitting diode) or digital displays which can vary in color or intensity, or any system which is functionally equivalent even if the message is static. The term also includes any display, or device, which changes the "static" message or copy on the sign, in "slide show" fashion, by electronic means.

B. Prohibition. An applicant shall not operate a Mobile Billboard on the Public Right-of-Way without obtaining a Permit under this section of the El Paso City Code. An applicant who obtains a Permit under this Section shall abide by all requirements prescribed under this Section as well as all regulations adopted by the Director under the authority granted to the Director under this Section.

C. Permit. An Applicant who wants to operate a Mobile Billboard on the Public Right-of-Way shall apply for a Permit on an application form as required by the Director. The Director shall issue no more than three Permits to three Applicants that comply with requirements of this Section and any regulations adopted by the Director pursuant to this Section. The Director shall not issue a Permit to an Applicant that does not comply with the requirements of this section or any regulations adopted by the Director pursuant to this section. An Applicant is not eligible to apply for a permit for one year following a revocation of a permit under this Section. Unless terminated earlier as provided under this section, all permits issued under this section expire *1 year after adoption* regardless of the date such Permit is issued. No Permit shall be issued to an Applicant owing ad valorem taxes to the City or who has defaulted on an agreement with the City within five years preceding the application for a Permit under this Section. Notwithstanding anything to the contrary, a Permit may only be issued to an Applicant who owns the Mobile Billboard for which the permit is requested. All application forms and documents under this section must be executed by the owner of the Mobile Billboard. Nothing in the section prohibits City Council from amending this Section to change the expiration date of all Permits.

D. Regulations. Mobile Billboards shall comply with the following:

1. Each Applicant who has been issued a Permit shall be limited to no more than 3 Mobile Billboard vehicles operating on city streets at one time.
2. Mobile Billboards shall not contain sound.
3. CEVM Mobile billboards are prohibited.
4. Any illumination shall comply with the City's dark sky ordinance.

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5. Mobile Billboards shall operate only on designated arterials, operating on local streets and freeways is prohibited.
6. Mobile Billboards shall be prohibited from operating during the hours between twelve am and eight am.
7. Mobile Billboards shall comply with the following dimensions:
 - i. The Mobile Billboard sign face area shall not exceed 14 feet in height measured from the ground.
 - ii. The Mobile Billboard sign face area shall not exceed 22 feet in length.
 - iii. The Mobile Billboard sign face area shall not exceed 220 square feet in size.
8. The operation of Mobile Billboards shall be prohibited when sustained winds in excess of 35 miles per hour exist within the immediate vicinity of the Mobile Billboard or its proposed route.
9. The issued Permit shall be displayed at all times in an open and conspicuous place on the premises of the permitted Mobile Billboard.

E. A Permit may be denied for failure to comply with this section or the regulations adopted by the Director under this Section. The Director may deny a Permit for up to one year following a Applicant's failure to comply with this Section or the regulations adopted by the Director under this section. A Permit may be denied or revoked upon discovery of any false information submitted by an Applicant under this Section. The Director may remove any Mobile Billboard placed on the Public Right-of-Way in violation of this Section or any regulation adopted by the Director under this Section.

F. Proof of Ownership and Insurance. An Applicant shall submit proof of ownership and insurance for all Mobile Billboards under a Permit and shall comply with all other applicable traffic laws and regulations.

G. Maintenance. Applicants shall ensure every Mobile Billboard is maintained in a condition to be operated safely upon City Public Rights-of-Way. An Applicant shall not perform maintenance on any Mobile Billboard on a Public Right-of-Way.

H. Non-Transferability. Permits issued under this section are not transferable.

I. No Property Rights. A permit does not grant any Applicant an exclusive right to any portion of the right-of-way.

J. Enforcement. The Director, a City Code Enforcement Officer, and/or a City of El Paso Police Officer are authorized to enforce the provisions of this section and the regulations adopted by the

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Director under this Section. An Applicant authorized to enforce this section is authorized to remove Mobile Billboards that threaten the public safety or welfare. An Applicant authorized to enforce this Section is also authorized to require an Applicant operating a Mobile Billboard to remove/relocate a Mobile Billboard that threatens the public safety or welfare.

K. Termination. Any Permits issued under this Section may be terminated by City Council as determined by City Council, at its sole and absolute discretion. This provision does not limit the authority of the Director under this Section.

L. Fees and Costs. City council may establish fees related to this Section in the annual budget resolution, including but not limited to fees for the use of the Public Right-of-Way, and fees for impoundment of a Mobile Billboard, as may be permitted by law.

M. Headings. All headings in this Section are for reference purposes only and do not control the meaning of any provision under this section.

N. Penalty. An Applicant who violates a provision under this section may have a Permit denied or revoked.

O. Not Applicable. This section does not apply to the following: an Applicant, or government entity, operating a Mobile Billboard on the Public Right-of-Way pursuant to a valid permit or authorization issued under any other section of the El Paso City Code; or a government entity operating a Mobile Billboard on the Public Right-of-Way pursuant to an interlocal or other similar agreement with the City of El Paso.



APPROVED this 15th day of February, 2022.

ATTEST:

Laura D. Prine

Laura D. Prine
City Clerk

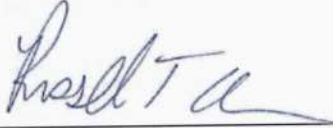
THE CITY OF EL PASO:

Oscar Leiser
Oscar Leiser
Mayor

(Signatures continued on Following Page)

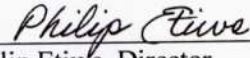
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APPROVED AS TO FORM:



Russell T. Abeln
Assistant City Attorney

APPROVED AS TO CONTENT:



Philip Etiwe, Director
Planning & Inspections Department

Ord 019301